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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/811,875

03/19/2001

Bruce Albert Yeazell

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27752 7590 01/26/2009  
THE PROCTER & GAMBLE COMPANY  
Global Legal Department - IP  
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EXAMINER

LU, JIPING

ART UNIT

PAPER NUMBER

3743

MAIL DATE

DELIVERY MODE

01/26/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* BRUCE ALBERT YEAZELL

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Application No. 09/811,875  
Technology Center 3700

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Mailed: January 26, 2009

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 14, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

PRIOR ORDER FOR RETURN

A prior “Order Returning Undocketed Appeal to Examiner” was mailed on August 3, 2007, wherein the Examiner was instructed that corrections were required. A review of the file finds that the required corrections have not been made or have not been made in entirety. The matters still requiring attention prior to docketing are identified below.

APPEAL BRIEF, SUMMARY OF CLAIMED SUBJECT MATTER

Appellant filed a corrected Appeal Brief dated September 4, 2007, in response to a Notice of Non-Compliant Appeal Brief mailed August 24, 2007. The Appeal Brief is not in compliance with 37 CFR § 1.192{c}. See Manual of Patent Examining Procedure (MPEP) § 1208 (8th ed., August 2001).

According to 37 CFR § 37 CFR 1.192{c} (v), an Appeal Brief must include the following:

- (v) Summary Of Claimed Subject Matter. A concise explanation of the invention defined in the claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawings, if any, by reference characters.

The “Summary of claimed subject matter” appearing on page 2 of the Appeal Brief filed September 4, 2007, is deficient because it does not provide a concise explanation of the claims involved in the appeal and reference the specification by page and line number. Correction is required.

MPEP § 1205.03 states in part:

(B) When the Office holds the brief to be defective solely due to appellant’s failure to provide a summary of the claimed subject matter as required... [r]ather, a paper providing a summary of the claimed subject matter as required by 37 CFR...will suffice. Failure to timely respond to the Office’s requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

#### SUPPLEMENT EXAMINER’S ANSWER

#### APPROVAL BY TECHNOLOGY CENTER DIRECTOR

The Communication mailed December 11, 2007, was an improper acknowledgment of the Appeal Brief filed September 4, 2007, as it constitutes a Supplemental Examiner’s Answer. The Supplemental Examiner’s Answer is deficient, because it was not signed by the Technology Center Group Director or his designee. Section 1207.05 Of the Manual of Patent Examining Procedure (MPEP) (Eighth Edition, Rev. 3, August 2005) states that “[e]very supplemental examiner’s answer must be approved by a Technology Center (TC) Director or designee.” Correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed September 4, 2007, defective, as required by 37 CFR § 1.192(c);
- 2) notify the Appellant to submit a “paper” which corrects the Appeal Brief’s Summary of Claimed Subject Matter under 37 CFR § 1.192 (c)(1)(v);
- 3) acknowledge and consider any “paper” submitted by Appellant to correct the Appeal Brief;
- 4) vacate the Supplemental Examiner’s Answer dated December 11, 2007, remail with the appropriate required signature (Technology Center Director or designee); and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

Application No. 09/811,875

KZ/dpv

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